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ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES

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June 8, 2010

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Dear Honorable Clerks:

I submit to you a proposed final regulation, 225 CMR 14.00, adopted under G.L. c. 25A §11F and provided to you as required by §12 of said chapter.

These regulations implement revisions to the Renewable Energy Portfolio Standards (RPS) Class I as required by the Green Communities Act, and will provide significant assistance to the Commonwealth in meeting its renewable energy goals.

Thank you for your time and processing of this matter.

Regards,

A handwritten signature in black ink, reading "Philip Giudice".

PHILIP GIUDICE

Commissioner

cc: Senator Michael Morrissey, Senate Chair of the Joint Committee on Telecommunication, Utilities, and Energy
Representative Barry Finegold, House Chair of the Joint Committee on Telecommunication, Utilities, and Energy

225 CMR 14.00 RENEWABLE ENERGY PORTFOLIO STANDARD – CLASS I

Section

- 14.01: Authority
- 14.02: Definitions
- 14.03: Administration
- 14.04: Applicability
- 14.05: Eligibility Criteria for RPS Class I Renewable Generation Units
- 14.06: Qualification Process for RPS Class I Renewable Generation Units
- 14.07: Renewable Energy Portfolio Standard
- 14.08: Compliance Procedures for Retail Electricity Suppliers
- 14.09: Annual Compliance Filings for Retail Electricity Suppliers
- 14.10: Reporting Requirements
- 14.11: Inspection
- 14.12: Non-compliance
- 14.13: Severability

14.01: Authority

225 CMR 14.00 is promulgated pursuant to M.G.L. c. 25A, § 11F.

14.02: Definitions

Aggregation. A group of one or more Generation Units that receives a single Statement of Qualification from the Department under criteria and procedures set forth in 225 CMR 14.05(6).

Alternative Compliance Payment. A payment of a certain dollar amount per MWh, resulting in the issuance of Alternative Compliance Credits, which a Retail Electricity Supplier may submit to the Department in *lieu* of providing RPS Class I Renewable Generation Attributes or Solar Carve-Out Renewable Generation Attributes required under 225 CMR 14.07.

Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon making an Alternative Compliance Payment. Such credit is used to document compliance with 225 CMR 14.07. One unit of credit shall be equivalent to the RPS Class I Renewable Generation Attribute associated with one MWh of electrical energy output from a RPS

Class I Renewable Generation Unit, or one unit of credit shall be equivalent to the Solar Carve-Out Renewable Generation Attribute associated with one MWh of electrical energy output from a Solar Carve-Out Renewable Generation Unit.

Authorized Agent. A person or entity that serves under an agreement entered into by each of the Owners or Operators of Generation Units within an Aggregation for all dealings with the Department and with the NEPOOL GIS.

Blended Fuel. A liquid or gaseous fuel that is blended from both Eligible RPS Class I Renewable Fuel(s) and ineligible fuel(s), a portion of whose electrical energy output may qualify as RPS Class I Renewable Generation under criteria set forth in 225 CMR 14.05(3).

Business Day. A business day shall mean Monday through Friday, exclusive of state and federal legal holidays.

Certificates Obligation. A term defined in the NEPOOL GIS Operating Rules at Rule 4.1(b), or any successor rule.

Commercial Operation Date. The date that a Generation Unit first produces electrical energy for sale within the ISO-NE Control Area or within an adjacent Control Area. In the case of a Generation Unit that has been moved from a location within the ISO-NE Control Area or within an adjacent Control Area to another location in one of those Control Areas, the date that such Generation Unit first produced electrical energy for sale at its earliest location in those Control Areas. In the case of a Generation Unit that is connected to the End-use Customer's side of the electric meter, the date on which the local distribution company grants approval for the Generation Unit to interconnect with the grid. In the case of a Generation Unit that produces Off-grid Generation, the date that such Generation Unit first produces electrical energy. In the case of a Generation Unit that meets the eligibility requirements of 225 CMR 14.05 and co-fires an Eligible RPS Class I Renewable Fuel, the date when the Generation Unit first co-fires such Eligible RPS Class I Renewable Fuel.

Compliance Filing. A document filed annually by a Retail Electricity Supplier with the Department documenting compliance with 225 CMR 14.07, consistent with the format set forth in the Guidelines and submitted no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

Compliance Year. A calendar year beginning January 1 and ending December 31, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225 CMR 14.07 and 14.08.

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Department. The Massachusetts Department of Energy Resources (DOER), established by M.G.L. c. 25A.

Eligible Biomass Fuel. Fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that are not mixed with other unsorted solid wastes; by-products or waste from animals or agricultural crops; food or vegetative material; energy crops; algae; organic refuse-derived fuel; anaerobic digester gas and other biogases that are derived from such resources; and neat Eligible Liquid Biofuel that is derived from such fuel sources.

Eligible Liquid Biofuel. A liquid fuel that is derived from Eligible Biomass Fuel and that yields at least a 50 per cent reduction in Lifecycle Greenhouse Gas Emissions relative to average lifecycle greenhouse gas emissions for petroleum distillate fuel sold in 2005, as determined by the Department in consultation with the MassDEP and the Executive Office of Energy and Environmental Affairs; or that is derived from waste feedstocks consisting of previously used or discarded solid, liquid or contained gaseous material resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to, waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater, or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the MassDEP.

Eligible RPS Class I Renewable Fuel. An Eligible Biomass Fuel, landfill methane gas, hydrogen derived from such fuels or hydrogen derived from water using the electrical output of a Renewable Generation Unit, but not hydrogen derived using RPS Class I Renewable Generation if the RPS Class I Renewable Generation Attributes of such Generation are sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy regulatory obligations in any jurisdictions, and not hydrogen derived directly or indirectly from ineligible fuels.

End-use Customer. A person or entity in Massachusetts that purchases electrical energy at retail from a Retail Electricity Supplier, except that a Generation Unit taking station service at wholesale from ISO-NE or self-supplying from its owner's other generating stations, shall not be considered an End-use Customer.

Generation Attribute. A non-price characteristic of the electrical energy output of a Generation Unit including, but not limited to, the Unit's fuel type, emissions, vintage and RPS eligibility.

Generation Unit. A facility that converts a fuel or an energy resource into electrical energy.

Geothermal Energy. Heat energy stored in the Earth's crust that can be accessed for electric power generation.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies Generation Attributes of each MWh accounted for in the NEPOOL GIS.

Guidelines. A set of clarifications, interpretations, and procedures, including forms, developed by the Department to assist in compliance with the requirements of 225 CMR 14.00. The Department may issue new or revised Guidelines from time to time. Each Guideline shall be effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 14.00.

Historical Generation Rate. The average annual electrical production from a Vintage Generation Unit that meets the requirements of 225 CMR 14.05(1)(a), stated in MWhs, for the three calendar years 1995 through 1997, or for the first 36 months after the Commercial Operation Date if that date is after January 1, 1995.

Hydroelectric Energy. Electrical energy from a Generation Unit that uses flowing freshwater as the primary energy resource, with or without a dam structure or other means

of regulating water flow, and that is not located at a facility that uses mechanical or electrical energy to pump water into a storage facility (*i.e.*, a so-called “pumped-storage facility”).

Impacted Watershed. All water bodies or areas of land hydrologically connected to a hydroelectric facility, whether located upstream or downstream, which may experience any alteration of their physical, biological, or ecological characteristics as a result of the operation or increased capacity expansion of a hydroelectric Generation Unit.

ISO-NE. ISO New England Inc., the independent system operator for New England, the regional transmission organization for most of New England, which is authorized by the Federal Energy Regulatory Commission (FERC) to exercise for the New England Control Area the functions required pursuant to the FERC’s Order No. 2000, the FERC’s corresponding regulations, and any successor FERC orders and regulations.

ISO-NE Settlement Market System. The ISO-NE’s electronic database system into which all real-time load and generation data are entered and from which such data are provided to the NEPOOL GIS.

Lifecycle Greenhouse Gas Emissions. The aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the Department in consultation with the MassDEP and the Executive Office of Energy and Environmental Affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

Low Impact Hydro Power Institute (LIHI). A non-profit 501(c)(3) organization located in Portland, Maine, whose stated purpose is to reduce the impacts of hydropower generation through the certification of hydropower projects that have avoided or reduced their environmental impacts pursuant to the Low Impact Hydropower Institute’s criteria.

Marine or Hydrokinetic Energy. Electrical energy derived from waves, tides and currents in oceans, estuaries and tidal areas; free-flowing water in rivers, lakes, streams, and human-made channels, provided that such water is not diverted, impounded, or dammed; or differentials in ocean temperature, called ocean thermal energy conversion.

Massachusetts Clean Energy Center. The center established in M.G.L. ch. 23J, § 2,

Massachusetts Renewable Energy Trust. The Trust under M.G.L. ch. 23J § 9, which administers renewable energy programs for the Commonwealth.

MassDEP. The Massachusetts Department of Environmental Protection established by G.L. c. 21A, § 7.

Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million watts of power operating for one hour.

NEPOOL GIS. The NEPOOL Generation Information System, which includes a generation information database and certificate system, operated by the New England Power Pool (NEPOOL), its designee or successor entity, that accounts for Generation Attributes of

electrical energy consumed within, imported into, or exported from the ISO-NE Control Area.

Non-intermittent Generation Unit. A Generation Unit having a capacity factor of 50 per cent or greater, as determined by the Department.

North American Electric Reliability Council (NERC) Tag. An identification of an electrical energy interchange transaction assigned in accordance with rules set forth by the North American Electric Reliability Council.

Off-grid Generation. The electrical energy produced by a Generation Unit that is not connected to a utility transmission or distribution system.

Operator. Any person or entity that has charge or control of a Generation Unit subject to 225 CMR 14.00, including without limitation a duly authorized agent or lessee of the Owner, or a duly authorized independent contractor.

Owner. Any person or entity that, alone or in conjunction with others, has legal ownership, a leasehold interest, or effective control over the real property or property interest upon which a Generation Unit is located, or the airspace above said real property, including without limitation a duly authorized agent of the Owner. For the purposes of 225 CMR 14.02, Owner does not mean a person or entity holding legal title or security interest solely for the purpose of providing financing.

Power Conversion Technology. The design, process, and equipment by which an energy resource is converted into useful energy, as specified in Guidelines.

Relevant Hydroelectric Agency. A federal, state or provincial agency with oversight over fish and wildlife, water quality, river flows, fish passage and protection, mitigation and enhancement opportunities, related to a hydroelectric facility located in the Impacted Watershed or that impacts downstream or upstream passage of fish and wildlife.

Renewable Generation. The electrical energy output of a Renewable Generation Unit.

Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific Generation Unit that derives from the Unit's production of Renewable Generation.

Renewable Generation Unit. A Generation Unit that uses an Eligible RPS Class I Renewable Fuel, Hydroelectric Energy, waste-to-energy that is a component of conventional municipal solid waste plant technology in commercial use, or any of the fuels, energy resources or technologies set forth in 225 CMR 14.05(1)(a).

Retail Electricity Product. An electrical energy offering that is distinguished by its Generation Attributes and that is offered for sale by a Retail Electricity Supplier to End-use Customers.

Retail Electricity Supplier. A person or entity that sells electrical energy to End-use Customers in Massachusetts, including but not limited to electric utility distribution companies supplying basic service or any successor service to End-use Customers. A Municipal Lighting Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the obligations of a Retail Electricity Supplier under 225 CMR 14.00 so

long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply pursuant to M.G.L. c. 164, § 47A.

RPS Class I Renewable Generation. The electrical energy output excluding any electrical energy utilized for parasitic load of a RPS Class I Renewable Generation Unit, or that portion of the electrical energy output excluding any electrical energy utilized for parasitic load of an RPS Class I Renewable Generation Unit that qualifies under (1) the Special Provisions for Incremental Generating Capacity pursuant to 225 CMR 14.05(2) on or after January 1, 2009; (2) a Vintage Waiver, pursuant to 225 CMR 14.05(2) issued before January 1, 2009; (3) a Co-firing and Blended Fuel Waiver, pursuant to 225 CMR 14.05(3); (4) the Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area, pursuant to 225 CMR 14.05(5); or (5) any other applicable provision of 225 CMR 14.00,.

RPS Class I Renewable Generation Attribute (Attribute). The Generation Attribute of the electrical energy output of a specific RPS Class I Renewable Generation Unit that derives from the Unit's production of RPS Class I Renewable Generation.

RPS Class I Renewable Generation Unit. A Generation Unit or Aggregation that has received a Statement of Qualification from the Department, including a Generation Unit or Aggregation termed a New Renewable Generation Unit in a Statements of Qualification issued by the Department pursuant to 225 CMR 14.00 before January 1, 2009, but does not include Solar Carve-Out Renewable Generation Units.

Solar Carve-Out Renewable Generation. The electrical output of a Solar Carve-Out Renewable Generation Unit that qualifies for the Massachusetts Solar Carve-Out excluding any electrical energy utilized for parasitic load.

Solar Carve-Out Renewable Generation Attribute. The Generation Attribute of the electrical energy output of a specific Solar Carve-Out Renewable Generation Unit that derives from the Unit's production of Solar Carve-Out Renewable Generation.

Solar Carve-Out Renewable Generation Unit. A Generation Unit or Aggregation that has received a Statement of Qualification from the Department that specifies its qualification for participation in the Solar Carve-Out under 225 CMR 14.05(4).

Statement of Qualification. A written document from the Department that qualifies a Generation Unit or Aggregation as an RPS Class I Qualified Generation Unit or a Solar Carve-Out Renewable Generation Unit, or that qualifies a portion of the annual electrical energy output of a Generation Unit or Aggregation as RPS Class I Renewable Generation.

Valid Air Permit. Within the United States, a current and effective authorization, license, certificate, or like approval to construct and/or operate a source of air pollution, issued or required by the regulatory agency designated in the applicable State Implementation Plan to issue permits under the Clean Air Act, 42 U.S.C. §§ 7401, *et seq.* In jurisdictions outside of the United States, it shall be a document demonstrating an equivalent authorization.

Vintage Generation Unit. A Generation Unit that meets the requirements of 225 CMR 14.05(1), that has a Commercial Operation Date of December 31, 1997, or earlier, and for which the Department issued a Statement of Qualification under the Vintage Waiver provision in 225 CMR 14.05(2) before January 1, 2009.

Vintage Generation. The electrical energy output of a Vintage Generation Unit during the period of the Unit's Historical Generation Rate.

14.03: Administration

225 CMR 14.00 shall be administered by the Department.

14.04: Applicability

225 CMR 14.00 applies to Retail Electricity Suppliers and to the Owners or Operators of RPS Class I Renewable Generation Units and Solar Carve-Out Renewable Generation Units.

14.05: Eligibility Criteria for RPS Class I and Solar Carve-Out Renewable Generation Units

(1) Eligibility Criteria. A Generation Unit may qualify as an RPS Class I Renewable Generation Unit or a Solar Carve-Out Renewable Generation Unit subject to the limitations in 225 CMR 14.05.

(a) Fuels, Energy Resources and Technologies. The Generation Unit shall use one or more of the fuels, energy resources and/or technologies listed in 225 CMR 14.05(1)(a)1 through 9.

1. Solar photovoltaic or solar thermal electric energy.
2. Wind energy.
3. Ocean thermal, wave or tidal energy.
4. Fuel cells using an Eligible RPS Class I Renewable Fuel.
5. Landfill methane gas, provided that such gas is collected and conveyed directly to the Generation Unit without use of facilities used as common carriers of natural gas, except that such landfill methane gas may be collected from a landfill entirely within the ISO-NE Control Area or an adjacent Control Area and transported to a Generation Unit within one of those Control Areas via a common carrier of natural gas, subject to documentation satisfactory to the Department of the gas transportation and related contracts.
6. Hydroelectric. An Generation Unit that uses Hydroelectric Energy may qualify as an RPS Class I Generation Unit, subject to the limitations in 225 CMR 14.05(1)(a)6.
 - a. The Unit has a nameplate capacity up to 25 megawatts, or increased capacity installed or efficiency improvements implemented after December 31, 1997, the aggregate of which increased capacity or efficiency improvements does not exceed 25 megawatts.
 - b. The Unit does not involve any dam or water diversion structure constructed after December 31, 1997, or pumped storage of water.
 - c. The Unit does not generate Marine or Hydrokinetic Energy.

d. The Unit meets appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed, as determined by the Department in consultation with Relevant Hydroelectric Agencies. The Unit shall demonstrate compliance with such standards by submitting the documentation required in either 225 CMR 14.05(1)(a)6.d.i or ii.

i. LIHI Certification of the Unit; except that in either of the two circumstances provided in 225 CMR 14.05(1)(a)6.d.i, the Department may request further information from the applicant and the Relevant Hydroelectric Agencies as part of its review of the applicant's Statement of Qualification Application. The Department shall notify the applicant of any such input from a Relevant Hydroelectric Agency not later than 30 days after receiving such input and shall provide the applicant an opportunity to respond to the Department not later than 30 days after the applicant's receipt of such notice from the Department.

A. If a Relevant Hydroelectric Agency identified an environmental concern and a proposed remedy to LIHI during the LIHI certification process, and such concern was not addressed in the LIHI certification to the satisfaction of the Agency, and the Agency consulted with the Owner or Operator of the Unit; or

B. If, between issuance of the LIHI certification and the Department's determination of the Unit's eligibility, a Relevant Hydroelectric Agency submits to the Department evidence of a significant environmental problem not previously known by such Agency, after consulting with the Owner or Operator of the Unit.

ii. A denial of certification from LIHI specifying the reasons the certification was denied and the applicant's proposed rationale for why the project should nevertheless receive a Statement of Qualification. In this instance, the Department shall notify and seek input from the Relevant Hydroelectric Agencies, which shall have 30 days from the date of their receipt of such notification to provide feedback to the Department. The Owner or Operator of the Unit shall be notified of any such input and shall have 30 days from receipt of such notice to respond to the satisfaction of the Department as to why its Application should be approved. The Department thereafter shall make finding of whether the Unit meets appropriate environmental safeguards despite the lack of LIHI certification.

e. The Owner or Operator of the Unit must serve notice to all Relevant Hydroelectric Agencies of its application for LIHI certification and its submission of a Statement of Qualification Application and must provide notice of such service to the Department.

f. If LIHI fails to act to certify or deny certification within 180 days from the date of submission of the Unit's application to LIHI, the Owner or Operator shall file notice of such event with the Department. The Department shall review the federal, state or provincial permits for the Unit and any submissions

to LIHI by Relevant Hydroelectric Agencies, and shall make a final determination as to whether the Unit meets environmental standards specified in 225 CMR 14.05(1)(a)6.d.

g. If LIHI is unable to review for certification a Unit that is located in a Control Area adjacent to the ISO-NE Control Area and outside the United States of America, the Owner or Operator of such Unit may petition the Department for certification using the LIHI standards by an independent third party acceptable to the Department.

7. Low-emission, advanced biomass Power Conversion Technologies using an Eligible Biomass Fuel. A Generation Unit may qualify as an RPS Class I Renewable Generation Unit, provided it uses an Eligible Biomass Fuel, subject to the limitations in 225 CMR 14.05(1)(a)7.

a. The Department shall set forth in Guidelines low-emission eligibility criteria which will become effective on their date of issuance. Any emission eligibility criteria in subsequently revised Guidelines shall become effective 24 months from their date of issuance.

b. A Generation Unit with a Commercial Operation Date after December 31, 1997, that is required to obtain an air permit in its jurisdiction, must possess a Valid Air Permit and must demonstrate to the satisfaction of the Department that the emission rates of the Unit do not exceed limits set forth in the Guidelines that are applicable for the date on which the Department receives the Unit's Statement of Qualification Application.

c. A Generation Unit with a Vintage Waiver that is required to obtain an air permit in its jurisdiction must possess a Valid Air Permit and must demonstrate to the satisfaction of the Department that the emission rates of the Unit do not exceed limits set forth in the Guidelines that are applicable for the date on which the Department receives the Unit's Statement of Qualification Application.

d. A Generation Unit that is not required to obtain an air permit in its jurisdiction must demonstrate to the satisfaction of the Department that its emissions are consistent with criteria set forth in the Guidelines that are applicable for the date on which the Department receives the Unit's Statement of Qualification Application.

e. In the case of a Generation Unit for whose size, type, or fuel the Guidelines do not provide applicable emission limits, the Department will determine appropriate limits in consultation with the MassDEP.

8. Marine or Hydrokinetic Energy.

9. Geothermal Energy.

(b) Commercial Operation Date. The Commercial Operation Date shall be after December 31, 1997, unless the Generation Unit received a Statement of Qualification with a Vintage Waiver prior to January 1, 2009. In the case of a Solar Carve-Out Renewable Generation Unit, the Commercial Operation Date shall be after December 31, 2007.

(c) Metering. The electrical energy output from a Generation Unit shall be verified by the ISO-NE or by an independent verification system or person participating in the NEPOOL GIS accounting system as an independent Third Party Meter Reader, as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

(d) Location. The Generation Unit location is subject to the limitations in 225 CMR 14.05(1)(d).

1. Off-grid Generation. If the Generation Unit produces Off-grid Generation, such Unit must be located in Massachusetts.

2. Behind-the-meter Generation. If the Generation Unit is wired to the electrical system on the End-use Customer's side of a retail electric meter, such Unit must be located within the ISO-NE Control Area.

(e) Capacity Obligation. The Generation Unit's generating capacity is subject to the following obligations:

1. The amount of the generation capacity of the Generation Unit whose electrical energy output is claimed as RPS Class I Renewable Generation or Solar Carve-Out Renewable Generation shall not be committed to any Control Area other than the ISO-NE Control Area unless such Generation Unit has entered into a Capacity Obligation in another Control Area before the start of the first available compliance year for the ISO-NE Forward Capacity Market, in which case this subsection shall apply upon the expiration of that Capacity Obligation. However, if the Generation Unit executed a contract for the sale of RPS Class I Renewable Generation Attributes or RPS Class I Renewable Generation, or both, before January 1, 2009, for a term of at least 2 years, the contract price of which relied on the receipt of capacity payments from a control area adjacent to the ISO-NE control area, and the Generation Unit can demonstrate such reliance to the satisfaction of the Department, this requirement shall not take effect for that Generation Unit until the expiration of that contract.

2. The Generation Unit Owner or Operator of a Non-intermittent Generation Unit shall commit to the ISO-NE Control Area the amount of the capacity of that Unit claimed as RPS Class I Renewable Generation or Solar Carve-Out Renewable Generation by submitting by the applicable deadline a show of intent for the ISO-NE Forward Capacity Auction that is the earliest available for the Unit after the Owner or Operator has submitted a Statement of Qualification Application unless the Owner or Operator can provide to the Department documentation of its prior commitment to the ISO-NE Control Area of such capacity. The Owner or Operator of any Unit that cannot demonstrate such prior commitment must also clear the Forward Capacity Auction for which it has qualified, even if it must participate as a price taker. The requirements of this paragraph do not apply to Generation Units for which DOER has received an administratively complete Statement of Qualification Application prior to July 2, 2008.

3. An RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit that was deemed unqualified by the ISO-NE for participation in the ISO-NE Forward Capacity Market for technical reasons may commit capacity to another control area and may receive GIS Certificates for the energy sold into ISO-NE Control Area, subject to a determination by the Department.

4. An RPS Class I Renewable Generation Unit or a Solar Carve-Out Renewable Generation Unit that has registered with the relevant distribution company as a net metering facility pursuant to 220 CMR 18.00, shall be exempt from the capacity obligation under 225 CMR 14.05(1)(e) while the facility is net metering.

(2) Special Provisions for Incremental Generation. An increase in electrical energy output of a Generation Unit with a Commercial Operation Date on or before December 31, 1997, may qualify as RPS Class I Renewable Generation, subject to the following limitations:

(a) The Generation Unit must meet the eligibility requirements of 225 CMR 14.05 with the exception of 225 CMR 14.05(1)(b).

(b) The portion of the total electrical energy output of the Generation Unit that qualifies as RPS Class I Renewable Generation in a given calendar year shall be the portion attributable to incremental new generating capacity or efficiency improvements installed or implemented after December 31, 1997, using equipment that was not utilized in any Renewable Generation Unit within the ISO-NE Control Area or within Control Areas adjacent thereto on or before December 31, 1997.

(c) The portion of the electrical energy output of a Generation Unit that does not qualify as RPS Class I Renewable Generation under the provisions of this subsection or under a Statement of Qualification granted to a Vintage Generation Unit prior to January 1, 2009, may qualify as RPS Class II Renewable Generation if it applies for and meets the eligibility standards of the RPS Class II Regulations set forth in 225 CMR 15.00.

(d) The portion of electrical energy output of a Generation Unit that replaces the output of an RPS Class I Renewable Generation Unit qualified under 225 CMR 14.05(1)(a)(5) at the same location, or proximate thereto, and utilizes the fuel resource of that location, shall not be qualified as Incremental Generation, unless a Unit meets the requirements of 225 CMR 14.05(7)(d).

(3) Co-Firing and Blended Fuel Waiver. All or a portion of the electrical energy output of a Generation Unit that uses ineligible fuel in conjunction with an Eligible RPS Class I Renewable Fuel, whether by co-firing such fuels or by using a Blended Fuel, may qualify as RPS Class I Renewable Generation provided the Generation Unit meets the eligibility requirements of 225 CMR 14.05, subject to the limitations in 225 CMR 14.05(3).

(a) The portion of the total electrical energy output that qualifies as RPS Class I Renewable Generation in a given time period shall be equal to the ratio of the net heat content of the Eligible RPS Class I Renewable Fuel consumed to the net heat content of all fuel consumed in that time period.

(b) If using a Blended Fuel of which the eligible portion is an Eligible Biomass Fuel or if co-firing an ineligible fuel with an Eligible Biomass Fuel, the entire Generation Unit must meet the requirements of an advanced biomass Power Conversion Technology as set forth in 225 CMR 14.05(1)(a)7.

(c) If using an Eligible Biomass Fuel, the Generation Unit must demonstrate to the satisfaction of the Department that the emission rates for the entire Generation Unit are consistent with rates prescribed by the MassDEP for comparably fueled Generation Units in the Commonwealth. The Department may require the Generation Unit Owner or Operator to retain at its own expense a third-party consultant deemed satisfactory to the Department, to provide DOER and the MassDEP with assistance in this determination.

(d) The Generation Unit must provide with its Statement of Qualification Application a fuel supply plan that specifies each and every fuel that it intends to use, in what relative proportions either in co-firing or in a Blended Fuel, and with what individual input heat values. Such plan shall include the procedures by which the Unit will document to the satisfaction of the Department its compliance with the plan.

(e) The provisions of 225 CMR 14.05(3) shall not apply to the incidental use of ineligible fuels for the purpose of cold starting a Generation Unit that otherwise exclusively uses an Eligible RPS Class I Renewable Fuel.

(4) Special Provisions for a Solar Carve-Out Generation Unit.

(a) The Solar Carve-Out Renewable Generation Unit must be used on-site, located in the Commonwealth of Massachusetts, and be interconnected with the electric grid. On-site use includes any new or existing load located at the site of the Unit including any parasitic load that may result from the installation of the Unit, and that is wired to receive a portion of the electrical energy output from the Unit before the balance of such output passes through the Unit's metered interconnection onto the electric grid. The maximum capacity of a Unit shall be 2 MW, as measured on a nameplate capacity basis in direct current and shall be determined based on the total capacity located on a single contiguous parcel of land.

(b) If the construction and installation of a Unit was funded through a program administered prior to January 1, 2010, by the Massachusetts Renewable Energy Trust, or if the Unit was funded substantially from American Recovery and Reinvestment Act, P.L. 111-5 (ARRA) for the installation of that Unit, the Unit shall not be eligible to participate in the Solar Carve-Out. Substantial shall mean for this purpose more than 67 per cent of total installed cost. Notwithstanding this subsection, if the substantial funding that a Unit receives is from a payment in lieu of tax credit under section 1603 of ARRA, the Unit shall be eligible for Solar Carve-Out Renewable Generation Attributes.

(c) Owners or Operators of Units under this subsection are eligible to participate in the Solar Credit Clearinghouse Auction for the Opt-In Term specified in the Statement of Qualification of the Unit. The Department or its agent shall maintain an account, known as Solar Credit Clearinghouse Auction Account on the NEPOOL GIS into which eligible Owners or Operators may deposit Solar Carve-Out Renewable Generation Attributes. The Solar Credit Clearinghouse Auction Account shall be available for deposit of Attributes only from May 16 to June 15, inclusive.

(d) An Owner or Operator that opts to deposit Solar Carve-Out Renewable Attributes into the Solar Credit Clearinghouse Auction Account shall be assessed, at the completion of the auction, a usage fee of 5 per cent of the auction price for each such Attribute deposited into Solar Credit Clearinghouse Auction Account. This usage fee

shall be deposited into the Alternative Compliance Payment fund under 225 CMR 14.08(3).

(e) Those Attributes deposited into Solar Credit Clearinghouse Auction Account shall then be retired and reissued by NEPOOL GIS as Re-minted Auction Account Attributes. These Attributes shall be eligible in either of the two subsequent Compliance Years from the year in which they were generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard. The Department or its agent shall conduct an auction for those Attributes. Any entity wishing to purchase Re-minted Auction Account Attributes may participate and enter a bid. Each bid shall be for the number of Re-minted Auction Account Attributes that the bidder wishes to purchase at a fixed price of \$300 per Re-minted Auction Account Attribute.

(f) The Solar Credit Clearinghouse Auction shall be held not later than July 31. . If the Auction clears, meaning that the total number of Re-minted Auction Account Attributes bid for in the auction was equal or more than the number of Solar Carve-Out Renewable Attributes deposited, then the total amount of deposited Attributes will be distributed to the bidders in a pro-rated manner such that each bidder receives the same percentage of their bid volume. If the auction does not clear, meaning that the total number of Re-minted Auction Account Attributes bid for in the auction was less than the number of Solar Carve-Out Renewable Attributes deposited, the Department or its agent shall void the auction.

(g) If the auction under 225 CMR 14.05(4)(f) does not clear, the Department shall conduct a new auction within 3 Business Days, in which any Attributes purchased shall be eligible in any of the three subsequent Compliance Years from the year in which they were generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard. If the auction does not clear, the Department or its agent shall void the auction.

(h) If the auction under 225 CMR 14.05(4)(g) does not clear, the Department or its agent shall conduct another auction within 3 Business Days, at which point the Attributes shall be eligible in any of the three subsequent Compliance Years from the year in which they were generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard. Prior to this Auction, the Department shall also recalculate the Massachusetts Solar Carve-Out Minimum Standard under 225 CMR 14.07(2)(e).

(i) If the auction under 225 CMR 14.05(4)(h) does not clear, the Re-minted Auction Account Attributes deposited in the Solar Credit Clearinghouse Auction Account shall be allocated to the bidders in a pro-rated manner so that an equal percentage of Re-Minted Auction Account Attributes are allocated from each Generation Unit that deposited Solar Carve-Out Renewable Attributes. The remaining Re-minted Auction Account Attributes shall be returned to the Owner or Operator of the Generation Unit who made the deposit. These Attributes shall be eligible in any of the three subsequent Compliance Years from the year in which they were generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard, and may be sold by the Owner or Operator of the Generation Unit.

(j) When 400 MW of Solar Carve-Out Renewable Generation Units have been installed, the Department shall announce that this threshold has been reached and shall not accept any new Statement of Qualification Applications for the Solar Carve-Out

Program under 225 CMR 14.05(4). Such Units are still eligible to apply as RPS Class I Renewable Generation Units.

(5) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area. The portion of the total electrical energy output of an RPS Class I Renewable Generation Unit located in a Control Area adjacent to the ISO-NE Control Area that qualifies as RPS Class I Renewable Generation shall meet the requirements in Rule 2.7(c) and all other relevant sections of the NEPOOL GIS Operating Rules or any successor rule, and the following requirements:

(a) The Generation Unit Owner or Operator shall provide documentation, satisfactory to the Department, of a contract or other legally enforceable obligation(s) ("Legal Obligation") that is executed between the Generation Unit Owner or Operator and an electrical energy purchaser located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE Control Area. Such documentation shall include provisions for obtaining associated transmission rights for delivery of the Unit's electrical energy from the Unit to the ISO-NE Control Area. The Generation Unit Owner or Operator shall pay for evaluation and verification of the provisions of such documentation by an independent party that is engaged or approved by the Department.

(b) The Generation Unit Owner or Operator shall provide documentation, satisfactory to the Department, that:

1. the electrical energy delivered pursuant to the Legal Obligation was settled in the ISO-NE Settlement Market System;
2. the Generation Unit produced, during each hour of the applicable month, the amount of MWhs claimed, as verified by the NEPOOL GIS administrator; if the originating Control Area employs a Generation Information System that is comparable to the NEPOOL GIS, information from that system may be used to support such documentation;
3. the electrical energy delivered under the Legal Obligation received a NERC Tag confirming transmission from the adjacent Control Area to the ISO-NE Control Area; and
4. the RPS Class I Renewable Generation Attributes have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(d) The Generation Unit Owner or Operator must provide an attestation in a form to be provided by the Department that it will not itself or through any affiliate or other contracted party, engage in the process of importing RPS Class I Renewable Generation into the ISO-NE Control Area for the creation of RPS Class I Renewable GIS Certificates, and then exporting that energy or a similar quantity of other energy out of the ISO-NE Control Area during the same hour.

(e) The quantity of electrical energy output from an RPS Class I Renewable Generation Unit outside the ISO-NE Control Area that can qualify as RPS Class I Renewable Generation at the NEPOOL GIS during each hour is limited to the lesser of the RPS Class I Renewable Generation actually produced by the Unit or the RPS Class I Renewable Generation actually scheduled and delivered into the ISO-NE Control Area.

(6) Special Provisions for Aggregations. An Aggregation of Generation Units that are located behind the customer meter or that are Off-grid Generation Units, each of which could independently meet the relevant requirements of 225 CMR 14.05, may receive a single Statement of Qualification and be treated as a single RPS Class I or Solar Carve-Out Renewable Generation Unit under the following criteria and procedures:

(a) Each Generation Unit in such Aggregation must be located within the same state and use the same fuel, energy resource and technology as all other Units in the Aggregation. In the instance of an Aggregation that includes a Solar Carve-Out Renewable Generation Unit, the Aggregation shall only include Units that are eligible for the Solar Carve-Out under 225 CMR 14.05(4).

(b) Each of the Owners or Operators of Generation Units within the Aggregation must enter into an agreement with a person or entity that serves as the Authorized Agent for the Aggregation in all dealings with the Department and with the NEPOOL GIS, and such agreement must include procedures by which the electrical energy output of each Unit shall be monitored and reported to the NEPOOL GIS.

(c) The Authorized Agent of the Aggregation must establish and maintain a Generator account at the NEPOOL GIS under the NEPOOL GIS Operating Rules, including all provisions for Non-NEPOOL Generator Representatives, as that term is defined in Rule 2.1(a)(vi) of those Rules, or any successor rules.

(d) The electrical energy output of each of the Generation Units in the Aggregation must be individually monitored and recorded, and it must be reported to the NEPOOL GIS as part of an aggregated total for the Aggregation, by an independent Third Party Meter Reader as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

(7) Special Provisions for Relocated, Repowered, and Replacement Generation Units. The Department may provide a Statement of Qualification to a Generation Unit that meets one of the following categories and criteria, as well as all other relevant provisions of 225 CMR 14.05:

(a) Relocated Generation Unit. A Generation Unit whose Power Conversion Technology was used on or before December 31, 1997, to generate electrical energy outside of both the ISO-NE Control Area and Control Areas adjacent thereto, and that is relocated into one of said Control Areas after December 31, 1997, provided that any components of the Power Conversion Technology that were not used outside of said Control Areas were first used in a Generation Unit after December 31, 1997.

(b) Repowered Generation Unit. A Generation Unit that did not utilize an Eligible RPS Class I Renewable Fuel at any time on or before December 31, 1997.

(c) Replacement Generation Unit. A Generation Unit that replaces a mothballed or decommissioned Generation Unit that had operated on the same site on or before December 31, 1997, subject to the following limitations:

1. The entire Power Conversion Technology of the existing Unit is replaced with equipment manufactured after December 31, 1997; and
 2. The existing Unit has not been in commercial operation for at least five years prior to submission of the Statement of Qualification Application.
- (d) Replacement Generation Unit for Vintage Generation Unit Destroyed or Subject of Government Taking. All of the electrical output of a Generation Unit that replaces the output of an RPS Class I Vintage Generation Unit originally qualified as New Renewable Generation under 225 CMR 14.05(1)(a)(5) at the same location, or proximate thereto, and utilizes the fuel resource of that location, may qualify as RPS Class I Renewable Generation without a Historical Generation Rate if the Owner or Operator can demonstrate to the satisfaction of the Department that the Unit has been rendered functionally or financially inoperable by (A) an act of God, (B) an act of war, (C) an act of terrorism or (D) an act of eminent domain.

14.06: Statement of Qualification Process for RPS Class I Renewable Generation Units and Solar Carve-Out Renewable Generation Units

- (1) Statement of Qualification Application. A Statement of Qualification Application shall be submitted to the Department by the Owner or Operator of the Generation Unit or by the Authorized Agent for an Aggregation, as provided in 225 CMR 14.05(6)(b). The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions.
- (2) Review Procedures.
 - (a) The Department will notify the applicant when the Statement of Qualification Application is administratively complete or if additional information is required pursuant to 225 CMR 14.06(1).
 - (b) The Department may, in its sole discretion, provide an opportunity for public comment on any Statement of Qualification Application.
- (3) Issuance or Non-Issuance of a Statement of Qualification.
 - (a) If the Department finds that all or a portion of the electrical energy output of a Generation Unit or of an Aggregation meets the requirements for eligibility as RPS Class I Renewable Generation or a Solar Carve-Out Renewable Generation pursuant to 225 CMR 14.05, the Department will provide the Owner or Operator of such Unit or the Authorized Agent for such Aggregation with a Statement of Qualification.
 - (b) The Statement of Qualification shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a particular Generation Unit or Aggregation with the provisions of 225 CMR 14.00.
 - (c) If the Generation Unit or Aggregation does not meet the requirements for eligibility as an RPS Class I Renewable Generation Unit or a Solar Carve-Out Renewable Generation Unit, the Department shall provide written notice to the Owner or Operator

or to the Authorized Agent for an Aggregation, including the Department's reasons for such finding.

(d) A Solar Carve-Out Renewable Generation Unit shall receive a Statement of Qualification that states that the Unit is eligible for the Massachusetts Solar Carve-Out and that specifies a term of calendar quarters, referred to as the Opt-In Term, during which period the Unit is eligible to participate in the Solar Credit Clearinghouse Auction. The Opt-In Term shall be set at the time that the Unit receives its Statement of Qualification, and the Opt-In Term shall commence with the earlier of either the first day of the calendar quarter during which occurs the RPS Effective Date, as such date is provided in 225 CMR 14.06(4), or the first day of the subsequent calendar quarter from the date of the Statement of Qualification.

(e) The length of the Opt-In Term shall be forty quarters in Compliance Year 2010. This Term shall be reduced by four quarters for each full 10 per cent of the compliance obligation that is deposited into the Solar Credit Clearinghouse Auction Account and shall be increased by four quarters for each full 10 per cent of the compliance obligation that is met with ACP Payments. However, in no instance shall this reduction or increase be greater than eight quarters for one Compliance Year, nor shall the Opt-In Term exceed forty quarters. For Compliance Years 2010-2016, inclusive, the Opt-in Term shall not be less than twenty quarters. For Compliance Year 2017 and later, the Department shall determine whether to set a minimum number of quarters for the Opt-in Term for the Compliance Year. The Department shall announce annually the length of the Opt-in Term on July 20.

(4) RPS Effective Date. The RPS Effective Date shall be the earliest date on or after the Commercial Operation Date on which electrical energy output of an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit can result in the creation of RPS Class I or Solar Carve-Out Renewable Generation Attributes, except that, in the case of a Biomass Unit, the RPS Effective Date shall not be earlier than the date on which the Department determines that the Unit has commenced compliance with the low-emission conditions in its Statement of Qualification, and in the case of a Hydroelectric Unit, the RPS Effective Date shall not be earlier than the date on which the Department determined that the Unit has commenced compliance with the environmental conditions in its Statement of Qualification.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Operator of an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, capacity commitment, or other characteristics of the Generation Unit that may affect the eligibility of the Unit as an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner or Operator of an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit shall notify the Department of any changes in the ownership, operating entity, generation capacity, NEPOOL GIS account, independent

verification system for the Unit's or Aggregation's electrical energy output, or contact information for the Generation Unit or Aggregation. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented.

(7) Time Limit for Project Implementation. Any Statement of Qualification issued on or after the effective date of this section shall expire 48 months after the issuance date of the Statement of Qualification (the Expiration Date) unless the Commercial Operation Date of the Generation Unit or Aggregation is on or before the Expiration Date. The Department may, at its discretion, grant an extension of the Expiration Date of the Statement of Qualification upon petition by the Owner or Operator of the Generation Unit or Aggregation. If the Owner or Operator of such Unit or Aggregation desires an extension, such Owner or Operator must submit a new Statement of Qualification Application, and the decision of the Department on such new application may be made in accordance with the regulations and criteria that are applicable on the date that the Department receives that application.

(8) Expiration of Advisory Rulings. An advisory ruling issued by the Department for any proposed Generation Unit for which an administratively complete Statement of Qualification Application has not been submitted as of the effective date of this subsection, shall be deemed to have expired on that date.

(9) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke a Statement of Qualification if the Owner or Operator of an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit or Authorized Agent of an Aggregation fails to comply with 225 CMR 14.00.

14.07: Renewable Energy Portfolio Standard – Class I

(1) RPS Class I Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier shall include a minimum percentage, as specified in the table in 14.07, of electrical energy sales with RPS Class I Renewable Generation Attributes and Solar Carve-Out Renewable Generation Attributes .

MASSACHUSETTS RENEWABLE ENERGY PORTFOLIO STANDARD – CLASS I

MINIMUM PERCENTAGES OF ANNUAL ELECTRICAL ENERGY SALES WITH RPS CLASS I RENEWABLE GENERATION ATTRIBUTES

Compliance Year	Cumulative Minimum Percentage, Including Solar Carve-Out
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	Renewable Generation
2003	1.0
2004	1.5
2005	2.0
2006	2.5
2007	3.0
2008	3.5
2009	4.0
2010	5.0
2011	6.0
2012	7.0
2013	8.0
2014	9.0
2015	10.0
2016	11.0
2017	12.0
2018	13.0
2019	14.0
2020	15.0

(2) Solar Carve-Out Minimum Standard.

(a) The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier shall include a minimum percentage of electrical energy sales with Solar Carve-Out Renewable Generation Attributes. This percentage shall be a portion of the Supplier's obligation under 225 CMR 14.07(1) and not an additional obligation of the Supplier. For each Compliance Year, the Solar Carve-Out Minimum Standard shall be calculated as the total Solar Carve-Out compliance obligation (in MWh) as determined in 225 CMR 14.07(2)(b) through 225 CMR 14.07(2)(g), divided by the total MWh of electrical energy sales by Retail Electricity Suppliers to End-use Customers in the Compliance Year 2 years prior, as such sales are defined in 225 CMR 14.09(2)(a). This resulting percentage, or Solar Carve-Out Minimum Standard, shall be

announced by the Department not later than August 30 of the preceding Compliance Year.

(b) For Compliance Year 2010, the total compliance obligation shall be established to be 34,164 MWh, calculated as 30 MW multiplied by 365 days in the year multiplied by 24 hours in the day multiplied by 0.13 (or 13%) capacity factor.

(c) For Compliance Year 2011, the total compliance obligation shall be established to be 78,577 MWh, calculated as 69 MW multiplied by 365 days in the year multiplied by 24 hours in the day multiplied by 0.13 (or 13%) capacity factor.

(d) For each subsequent Compliance Year, the total compliance obligation shall be equal to the total compliance obligation from the previous Compliance Year, plus the difference between the total compliance obligation for the previous Compliance Year and the total compliance obligation for the Compliance Year two years prior which is multiplied by 1.3, minus the quantity of Solar Carve-Out Alternative Compliance Credits used for the Compliance Year two years prior plus the number of Solar Carve-Out Renewable Generation Attributes from the Compliance Year two years prior banked as provided under 225 CMR 14.08(2), plus the number of Solar Carve-Out Renewable Generation Attributes from the Compliance Year two years prior deposited into the Solar Credit Clearinghouse Auction Account.

$$\text{Total Compliance Obligation}_{CY} = \text{Total Compliance Obligation}_{CY-1} + (\text{Total Compliance Obligation}_{CY-1} - \text{Total Compliance Obligation}_{CY-2}) \times 1.3 - \text{ACP Volume}_{CY-2} + \text{Banked Volume}_{CY-2} + \text{Auction Volume}_{CY-1}$$

(e) In the instance the Solar Credit Clearinghouse Auction under 225 CMR 14.05(4)(g) does not clear, prior to conducting an auction under 225 CMR 14.05(4)(h), the Department shall recalculate the Solar Carve-out Minimum Standard for the Compliance Year two years following the Compliance Year in which the Solar Carve-Out Renewable Generation Attributes deposited into the Solar Credit Clearinghouse Auction Account were generated by adding to the previously calculated total compliance obligation under 225 CMR 14.07(2) (d) the number of Solar Carve-Out Renewable Generation Attributes deposited into the Solar Credit Clearinghouse Auction Account such that the number of Attributes deposited has been counted twice.

(f) In no instance shall the Solar Carve-Out Minimum Standard be a percentage less than that of the previous Compliance Year. If the calculations in 225 CMR 14.07(2) (d) were to result in such a situation, the Solar Carve-Out Minimum Standard shall be equal to the percentage from the previous Compliance Year.

(g) Notwithstanding 225 CMR 14.07(2)(d), for the Compliance Year for which the total compliance obligation calculated in 225 CMR 14.07(2)(c) through (f) exceeds 455,520 MWh (calculated as the annual generation of 400 MW operating at a 13% capacity factor) then the total compliance obligation shall be set equal to 455,520 MWh for that Compliance Year for the purpose of calculating the Solar Carve-Out Minimum Standard.

(h) Notwithstanding 225 CMR 14.07(2)(d), for all Compliance Years subsequent to reaching the maximum compliance obligation as calculated in 225 CMR

14.07(2)(g), the total compliance obligation shall be equal to the total compliance obligation from the Compliance Year two years prior minus the quantity of Solar Carve-Out Alternative Compliance Credits used for the Compliance Year two years prior, plus the number of Solar Carve-Out Renewable Generation Attributes from the Compliance Year two years prior banked as provided under 225 CMR 14.08(2), plus the number of Solar Carve-Out Renewable Generation Attributes from the Compliance Year two years prior deposited into the Solar Credit Clearinghouse Auction Account.

(i) In the Compliance Year in which the Department stops qualifying Units for the Solar Carve-out Program under 225 CMR 14.05(4)(i), the Department shall announce the final Compliance Year of the Solar Carve-Out program. This final Compliance Year shall be calculated as the then current Compliance Year, plus the longest remaining Opt-In Term (in calendar quarters) for any qualified Solar Carve-Out Renewable Generation Unit divided by four. In the event that a Solar Credit Clearinghouse Auction is held and creates Re-minted Auction Account Attributes that can be used for Compliance Years after the calculated final Compliance Year, the Department shall extend the final Compliance Year by the number of years sufficient to accommodate the Compliance Years during which the Re-minted Auction Account Attributes can be used for Solar Carve-Out compliance.

(j) For the year after the final Compliance Year, the Department shall set the Solar Carve-Out Minimum Standard to zero. From this time forward, Solar Carve-Out Renewable Energy Generation Attributes shall cease to exist, and all generation from qualified Solar Carve-Out Renewable Generation Units shall produce RPS Class I Renewable Energy Attributes.

(3) Post-2020 Standards. After 2020, the RPS Class I Minimum Standard shall increase by 1% per Compliance Year unless modified by law.

14.08: Compliance Procedures for Retail Electricity Suppliers

(1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in compliance with 225 CMR 14.00 if the information provided in the Compliance Filing submitted pursuant to 225 CMR 14.09 is true and accurate and demonstrates compliance with 225 CMR 14.07. A Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that RPS Class I Renewable Generation Attributes or Solar Carve-Out Renewable Generation Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(2) Banked Compliance. A Retail Electricity Supplier may use RPS Class I Renewable Generation Attributes or Solar Carve-Out Renewable Generation Attributes produced in one Compliance Year for compliance in either or both of the two subsequent Compliance Years, subject to the limitations in 225 CMR 14.08(2) and provided that the Retail Electricity Supplier is in compliance with 225 CMR 14.00 for all previous Compliance Years. In addition, the Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that such Attributes:

(a) were in excess of the RPS Class I Renewable Generation Attributes or Solar Carve-Out Renewable Generation Attributes needed for compliance in the Compliance Year in which they were generated, and that such excess Attributes have not previously been used for compliance with 225 CMR 14.00;

(b) do not exceed 30% of the RPS Class I Renewable Generation Attributes or do not exceed 10% of the Solar Carve-Out Renewable Generation Attributes needed by the Retail Electricity Supplier for compliance with the RPS Class I Minimum Standard or the Solar Carve-Out Renewable Minimum Standard, respectively, in the year they were generated, subject to 225 CMR 14.09(2)(d);

(c) were produced during the Compliance Year in which they are claimed as excess by the generation of electrical energy sold to End-use Customers in the ISO-NE Control Area, by the generation of electrical energy on End-use Customers' sides of retail meters in the ISO-NE Control Area, or by the generation of electrical energy from Off-grid Generation Units in Massachusetts; and

(d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(3) Alternative Compliance. A Retail Electricity Supplier may discharge its obligations under 225 CMR 14.07, in whole or in part, for any Compliance Year by making an Alternative Compliance Payment (ACP) to the Massachusetts Clean Energy Technology Center, established by M.G.L. ch. 23J. Such funds shall be held in an account separate from other accounts of the Center.

(a) RPS Class I Procedures. A Retail Electricity Supplier shall receive Alternative Compliance Credits from the Department, subject to the following:

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 14.07(1) shall be determined by calculating the ratio of the total of ACPs paid for the Compliance Year to the ACP Rate for that Compliance Year.

2. The ACP Rate for the RPS Class I Minimum Standard shall be \$50 per MWh for Compliance Year 2003. For each subsequent Compliance Year, the Department shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.

3. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made to the Massachusetts Clean Energy Technology Center during the Compliance Year.

(b) Solar Carve-Out Renewable Generation Procedures. A Retail Electricity Supplier shall receive Solar Carve-Out Alternative Compliance Credits from the Department, subject to the following:

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 14.07(2) shall be determined by calculating the ratio of the total of Solar Carve-Out ACPs paid for the Compliance Year to the Solar Carve-Out ACP Rate for that Compliance Year.

2. The ACP Rate for the Solar Carve-Out Minimum Standard shall be \$600 per MWh. The Department may reduce the Rate, but not by more than 10% in a Compliance Year. The Department shall publish any new ACP Rate by January 31 of the Compliance Year with an explanation of the change.

3. The ACP Rate for that portion of a Retail Electricity Supplier's Solar Renewable Energy Credit obligations that were contractually committed or renewed prior to January 1, 2010, shall be equal to the RPS Class I ACP Rate as calculated for the applicable Compliance Year under 225 CMR 11.08(3)(a)(2). This provision does not apply to **obligations that were contractually committed** or renewed on or after January 1, 2010.

4. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for Solar Carve-Out ACPs made to the Massachusetts Clean Energy Technology Center during the Compliance Year.

(c) Use of Funds. The Department shall oversee the use of ACP funds by the Board of the Massachusetts Clean Energy Technology Center, as established in G.L. ch. 23J, § 2, so as to further the commercial development of RPS Class I Renewable Generation Units and Solar Carve-Out Renewable Generation Units.

14.09: Annual Compliance Filings for Retail Electricity Suppliers

(1) Date of Annual Compliance Filing. For each Compliance Year, the Retail Electricity Supplier annually shall file an annual Compliance Filing with the Department no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

(2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the Filing shall document compliance with the provisions of 225 CMR 14.07 and 14.08 to the satisfaction of the Department and shall include, but not be limited to, the following:

(a) Total Electrical Energy Sales to End-use Customers. Documentation of the total MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in the Compliance Year. Such allocation is defined as the total quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to all of the Supplier's Massachusetts retail subaccounts in the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules.

(b) Electrical Energy Sales to End-use Customers by Product. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance Year, verified by an independent third party satisfactory to the Department, consistent with the Guidelines. Such allocation is defined as the quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to each of the Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules. The Department shall keep product information confidential to the extent permitted by law.

(c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers that were derived from RPS Class I Renewable Generation and Solar Carve-Out Renewable Generation during the Compliance Year, and which may include electrical energy generated on End-use Customers' sides of retail meters in the ISO-NE Control Area or by Off-grid Generation Units in Massachusetts in the Compliance Year, as follows:

1. For electrical energy transactions included in the ISO-NE Settlement Market System, the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the Retail Electricity Supplier's ownership of GIS Certificates representing RPS Class I Renewable Generation and Solar Carve-Out Renewable Generation during the Compliance Year.
2. For electrical energy transactions not included in the ISO-NE Settlement Market System, but for which the Retail Electricity Supplier has secured GIS Certificates from the NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of the Retail Electricity Supplier's ownership of GIS Certificates representing RPS Class I Renewable Generation and Solar Carve-Out Renewable Generation during the Compliance Year.

(d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity Product of any quantity of RPS Class I Renewable Generation Attributes banked from one or both of the two previous years pursuant to 225 CMR 14.08(2) that are used to demonstrate compliance with the RPS Class I Minimum Standard in the current Compliance Year, and allocation by Retail Electricity Product of any quantity of Solar Carve-Out Renewable Generation Attributes banked from one or both of the two previous years pursuant to 225 CMR 14.08(2) that are used to demonstrate compliance with the Solar Carve-Out Minimum Standard or the RPS Class I Minimum Standard in the current Compliance Year;

(e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any Alternative Compliance Credits or Solar Carve-Out Alternative Compliance Credits claimed pursuant to 225 CMR 14.08(3)(a), along with a copy of any Alternative Compliance Payment receipt(s), and allocation by Retail Electricity Product of any Alternative Compliance Credits or Solar Carve-Out Alternative Compliance Credits claimed pursuant to 225 CMR 14.08(3)(b), along with a copy of any Solar Carve-Out Alternative Compliance Payment receipt(s); and

(f) Attributes Banked for Future Compliance. Identification of any quantity of Attributes from RPS Class I Renewable Generation or Solar Carve-Out Renewable Generation, that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 14.08(2).

(g) Contracts Subject to Lower ACP Rate under 225 CMR 14.08(3)(b)(3). Identification of any contract for a specific term of years that was executed before January 1, 2010, and its terms, including but not limited to, the execution and expiration dates of the contract and the annual volume of electrical energy supplied. Contracts eligible for the Lower ACP Rate shall include only those contracts that were executed by a retail end-use customer.

14.10: Reporting Requirements

(1) Certification. Any person required by 225 CMR 14.00 to submit documentation to the Department shall provide:

- (a) the person's name, title and business address;
- (b) the person's authority to certify and submit the documentation to the Department; and
- (c) the following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and imprisonment."

(2) Annual Renewable Energy Resource Report. The Department shall produce and make available to the public an annual report that summarizes information submitted to the Department by Retail Electric Suppliers in the Annual Compliance Filing submitted to the Department pursuant to 225 CMR 14.09(2). Such report shall include non-confidential data that provides the following:

- (a) the extent to which the Retail Electric Suppliers complied with the RPS Class I Minimum Standard and the Solar Carve-Out Minimum Standard, both separately and combined;
- (b) the extent to which the Retail Electric Suppliers used Standard Compliance, Banked Compliance, and Alternative Compliance in meeting the Minimum Standards; and
- (c) the names, locations, and types of RPS Class I Renewable Energy Generation Units and Solar Carve-Out Renewable Energy Units from which the Retail Electric Suppliers, as an aggregate, obtained the Renewable Energy Attributes used in meeting the Minimum Standards.

(3) Identification of Renewable Generation Units, RPS Class I and Solar Carve-Out Renewable Generation Units. The Department shall inform the NEPOOL GIS administrator which Generation Units should be designated as Renewable Generation Units, RPS Class I and Solar Carve-Out Renewable Generation Units pursuant to 225 CMR 14.00.

14.11: Inspection

- (1) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 225 CMR 14.00. The Department may request and obtain from any Owner or Operator of an RPS Class I Renewable Generation Unit, a Solar Carve-Out Renewable Generation Unit, and any Retail Electricity Supplier information that the Department determines necessary to monitor compliance with and enforcement of 225 CMR 14.00.
- (2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or RPS Class I Renewable Generation Unit Owner or Operator, the Department may conduct audits, which may include inspection and copying of records and/or site visits to an RPS Class I Renewable Generation Unit, Solar Carve-Out Renewable Generation Unit, or a Retail Electricity Supplier's facilities, including, but not limited to, all files and documents that the Department determines are related to compliance with 225 CMR 14.00.

14.12: Non-compliance

Any Retail Electricity Supplier or Owner or Operator of a RPS Class I Renewable Generation Unit or a Solar Renewable Generation Unit that fails to comply with the requirements of 225 CMR 14.00 shall be subject to the following provisions:

- (1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR 14.00 shall be determined by the Department. A written Notice of Non-compliance shall be prepared and delivered by the Department to any Retail Electricity Supplier or Owner or Operator of a RPS Class I Renewable Generation Unit or Solar Renewable Generation Unit that fails to comply with the requirements of 225 CMR 14.00. The Notice of Non-compliance shall describe the Requirement(s) with which the Retail Electricity Supplier, Owner, or Operator failed to comply and the time period of such non-compliance.
- (2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be published on the Department's website and in any other media deemed appropriate by the Department. Such publication may remain posted until the Retail Electricity Supplier or Owner or Operator returns to compliance as determined by the Department.
- (3) Planning Requirement. A Retail Electricity Supplier that fails to meet the requirements of 225 CMR 14.07 during a Compliance Year shall submit a plan for achieving compliance for the subsequent three years. The plan shall be filed with the Department no later than the first day of September of the Compliance Year subsequent to the Compliance Year for which the Retail Electricity Supplier was out of compliance or such date as the Department may specify.
- (4) Suspension or Revocation of License. The Department shall refer its findings of non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity Supplier that fails to comply with 225 CMR 14.00 may be subject to the Massachusetts Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

14.13: Severability

If any provision of 225 CMR 14.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 14.00: M.G.L. c. 25A, § 11F.